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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/558,232	04/26/2000	David M. Manyak	900/00310	9717
21569 7590 07/24/2009 Caliper Life Sciences, Inc. C/O CARDINAL LAW GROUP, LTD 1603 ORRINTON AVE STE 2000 EVANSTON, IL 60201-5543				
EXAMINER LY, CHEYNE D				
ART UNIT 2168		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte: DAVID M. MANYAK, RENEE A. ZEPPELLO, HAO CHEN,
ARTHUR D. WEISSMAN, and GARRY L. LANG

Appeal No. 2009-004667
Application No. 09/558,232
Technology Center 2100

Mailed: July 24, 2009

Before DALE SHAW *Chief Appeals Administrator*

ORDER REMANDING TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences (BPAI) on December 15, 2008. A docketing notice was mailed to Appellants on February 24, 2009. A further review of the application has revealed that it is not ready for decision consideration by a BPAI judicial panel. Accordingly, the application is herewith being remanded to the Examiner to address the following matter.

APPEAL BRIEF, APPEALED CLAIMS

Appellants have not appealed all rejected claims. Specifically, a review of the Grounds of Rejection on the record finds that rejections are outstanding for the following pending claims: 1-3, 10, 14-23, 27, 28, 33-43, 59-64, 67, 68, 70-105, 107, 108, 110, 120-129, 132, 139, and 140-142, 144, and 145. The rejected claims that have not been appealed and/or argued for appeal are claims 59-64, 67, 68, 70-105, 107, 108, 110, 120-129, 132, 139, 140, 141, 144, and 145.

DISCUSSION

The Board of Appeals and Interferences (Board), in *Ex parte Ghuman*, <http://www.uspto.gov/web/offices/dcom/bpai/prec/rm081175.pdf> (BPAI May 14, 2008) (precedential), held that in appeals where rejected claims are expressly withdrawn, or are implicitly withdrawn by not presenting arguments in support of patentability, the Board will remand (or return) the application to the Examiner with instructions to cancel the expressly or implicitly withdrawn claims. *See also Manual of Patent Examining Procedure* (MPEP) § 1215.03 (8th ed. Rev. 7, Sept 2008).

CONCLUSION

Accordingly, it is

ORDERED that this application be remanded to the Examiner to:

- 1) to enter a paper canceling claims 59-64, 67, 68, 70-105, 107, 108, 110, 120-129, 132, 139, 140, 141, 144, and 145;
- 2) upon entry of the paper, to return the application to the Board for the consideration of appealed claims; and
- 3) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

DMS/PEB

Caliper Life Sciences, Inc.
850 Marina Village Parkway
Alameda CA 94501-1038